

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

GESTURE TECHNOLOGY
PARTNERS, LLC,

Plaintiff

v.

HUAWEI DEVICE CO., LTD.,
HUAWEI DEVICE USA, INC.,

Defendants.

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CASE NO. 2:21-cv-00040-JRG
(Lead Case)

JURY TRIAL DEMANDED

GESTURE TECHNOLOGY
PARTNERS, LLC,

Plaintiff

v.

SAMSUNG ELECTRONICS CO., LTD.
AND SAMSUNG ELECTRONICS
AMERICA, INC.,

Defendants.

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CASE NO. 2:21-cv-00041-JRG
(Member Case)

JURY TRIAL DEMANDED

**DECLARATION OF DAVID M. FOX IN SUPPORT OF DEFENDANTS' MOTION FOR
LEAVE TO AMEND INVALIDITY CONTENTIONS**

I, David M. Fox, hereby declare as follows:

1. I am an attorney at the law firm Paul Hastings LLP, counsel of record for Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. in this action. I have personal knowledge of the facts herein and, if called as a witness, I could and would testify competently as to their truth.

2. On July 6, 2021, Defendants Samsung Electronics Co., Ltd., Samsung Electronics America, Inc. ("Samsung") and Defendants Huawei Device Co., Ltd., and Huawei Device USA,

Inc. (“Huawei”) (collectively, “Defendants”) served their Invalidity & Subject-Matter Eligibility contentions (“Invalidity Contentions”) pursuant to P.R. 3-3 and 3-4. As part of their Invalidity Contentions, Defendants identified (1) TV Controller Using Hand Gestures and Related Interactive Computer Graphics Applications (“MERL”), and (2) 3D Image Control with Hand Gestures, including Control of Molecular Biology Modeling (“MDScope”).

3. On August 3, 2021, Defendants served a subpoena for production of documents on Mitsubishi Electric Research Laboratories, Inc. (“Mitsubishi Labs”), the creator of the MERL system. On August 4, 2021, Defendants served a subpoena for production of documents on the Beckman Institute at the University of Illinois at Urbana-Champaign (“Beckman Institute”), the creator of the MDScope system.

4. On August 16, 2021, the Beckman Institute responded to Defendants’ subpoena, producing six publications. Defendants produced these six publications on August 25, 2021.

5. On September 1, 2021, Mitsubishi Labs responded to Defendants’ subpoena, producing an AVI file production numbered MERL00001. Defendants produced this AVI file on September 2, 2021.

6. On September 10, 2021, Defendants notified Plaintiff of their intention to seek the Court’s leave to supplement their Invalidity Contentions. Defendants asked Plaintiff to respond by September 15, 2021. A true and correct copy of this correspondence is attached as **Exhibit A**.

7. Along with Defendants’ September 10 notification, Defendants sent Plaintiff REDLINE versions of the amended contentions. Attached as **Exhibit B** is a true and correct copy of the REDLINE cover pleading and exemplary claims charts.

8. On September 15, 2021, Defendants followed up with Plaintiff, again asking for Plaintiff’s position on Defendant’s proposed supplementation. *See* Ex. A.

9. On September 17, 2021, Defendants followed-up with Plaintiff, again asking for Plaintiff's position on Defendant's proposed supplementation. Plaintiff responded indicating its opposition to the motion. *Id.*

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 17th day of September, 2021 in Milpitas, California.

/s/ David M. Fox
David M. Fox